

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

STARR INDEMNITY & LIABILITY COMPANY,

Plaintiff,

vs.

13 Civ. 8580 (GWG)

BRIGHTSTAR CORP. and  
BRIGHTSTAR GERMANY GmbH,

Defendants.

**PLAINTIFF'S NOTICE OF MOTION  
FOR PARTIAL SUMMARY JUDGMENT**

**PLEASE TAKE NOTICE** that, upon the accompanying Memorandum of Law in support of this motion, the accompanying Statement of Undisputed Material Facts Pursuant to Local Civil Rule 56.1(a) dated May 25, 2018, the accompanying Declaration of Kevin J.B. O'Malley in Support of Plaintiff's Motion for Partial Summary Judgment executed on May 25, 2018 and the exhibits thereto, and the pleadings herein, Plaintiff Starr Indemnity & Liability Company will move this Court, before the Honorable Gabriel W. Gorenstein, United States Magistrate Judge, United States Court House, 500 Pearl Street, Courtroom 6B, New York, New York, as soon as counsel may be heard, for an order pursuant to Rule 56 of the Federal Rules of Civil Procedure granting summary judgment in favor of Plaintiff Starr Indemnity & Liability Company and against Defendants Brightstar Corp. and Brightstar Germany GmbH on the following claims and issues:

- (1) the applicable law;
- (2) the applicable limit of liability under the subject policy;
- (3) the interpretation of the subject policy's Errors and Omissions clause; and

(4) the interpretation of the subject policy's Misappropriation exclusion, and granting such other and further relief as the Court deems just and proper under the circumstances.

Dated: New York, New York  
May 25, 2018

NICOLETTI HORNIG & SWEENEY  
*Attorneys for Plaintiff*

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